

**UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY**

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL NO. 5:11-CR-00038

HUGHIE ELBERT STOVER,

Defendant.

MOTION TO CONTINUE TRIAL

Comes now the Defendant, Hughie Elbert Stover, by counsel, and respectfully moves that the trial of this matter, now set to begin on July 18, 2011, be continued. In support thereof, Defendant states the following:

1. On July 12, 2011, the Government filed a motion to withdraw opposition [Dkt. No. 66] to Defendant's motion to continue the trial of this case based on the fact that it had recently discovered approximately 2,500 pages of material in its possession that it said had been inadvertently omitted from the documents previously disclosed to the defendant. The Government's motion to withdraw opposition [Dkt. No. 66] to Defendant's earlier-filed motion to continue the trial of this case is incorporated herein by this reference. The Government also filed a supplemental discovery response [Dkt. No. 67].

2. On July 13, 2011, Defendant received a CD containing the disclosures from the Government by Federal Express Standard Overnight.

3. Somewhat later on July 13, 2011, the Court entered an order denying Defendant's motion to continue, granting the Government's motion to withdraw reference to the magistrate judge, and denying Defendant's motion to dismiss. In its Order, the Court acknowledged the Government's indication that additional and previously undisclosed documents had recently been discovered and were being disclosed to Defendant, but noted that no new motion for a continuance on this new ground had been filed.

4. Trial in this case is currently scheduled to begin in five days, on July 18, 2011.

5. Based on the additional 2,500 pages of discovery recently disclosed, Defendant respectfully moves that the trial of this matter be continued for a reasonable amount of time to give him an adequate opportunity to review those documents. Counsel represents that he cannot assure the defendant an effective defense without additional time to review the additional approximately 2,500 pages of discovery just received from the United States today.

6. Moreover, the United States Attorney has authorized Defendant's counsel to state that the Government believes that the late production of some 2,500 pages of discovery material is an appropriate basis for a motion to continue and that the Government does not oppose a continuance of the trial of this case for a reasonable amount of time.

7. For all of the foregoing reasons, Defendant avers that the ends of justice would be served in granting Defendant's motion for a continuance, and that such action outweighs the best interest of the public and the defendant in a speedy trial as set forth in the Speedy Trial Act, 18 U.S.C. §3161 *et seq.*

8. The Defendant, who is free on bond and not incarcerated pending trial, personally and specifically waives his right to a speedy trial in support of this Motion to Continue.

WHEREFORE, Defendant Hughie Elbert Stover, by counsel, respectfully moves the Court to continue the trial to allow the parties the reasonable time necessary effectively to prepare for trial and review the newly disclosed evidence described above.

Dated this 13th day of July, 2011.

HUGHIE ELBERT STOVER,
By Counsel

/s/ William D. Wilmoth

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CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of July, 2011, I served the foregoing *Motion to Continue* upon all counsel of record, using the Court's CM/ECF filing system as follows:

Hon. R. Booth Goodwin, II
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/s/ William D. Wilmoth